MUNICIPAL CORPORATIONS—IMPLIED POWERS.—The plaintiff was run into and injured by an automobile ambulance owned by the defandant. The city had statutory power to provide hospitals for contagious diseases, and hospitals for inhabitants who by misfortune or poverty might require relief; but no express power was conferred to operate ambulances. *Held,* that the city was not liable for the accident, as the purchase and operation of the ambulance was *ultra vires. Ducey* v. *Town of Webster,* (Mass., 1921), 130 N. E. 53.

The powers of municipalities are special and are restricted to the public purposes for which they are created. *Akron* v. *McElligott,* 166 Iowa 297; *In re Pryor,* 55 Kan. 724. A municipal corporation's powers include those that are necessarily or fairly implied in or incident to the powers expressly granted. 1 DILLON, MUNICIPAL CORPORATIONS [5th Ed.] 449. Erection of halls for public meetings have been held to be within the implied powers of a city. *Bates* v. *Bassett,* 60 Vt. 530. Under a power to abate nuisances, a city may provide an incinerator to consume garbage. *Kilvington* v. *Superior,* 83 Wis. 222. Under authority to keep streets in repair, a city can not operate a quarry outside of the city limits. *Donable* v. *Harrisonburg,* 104 Va. 533; see also *Schneider* v. *City of Menasha,* 118 Wis. 298. Generally speaking, municipal authority is to be strictly construed, and all reasonable doubts as to the existence of the power in a municipal corporation must be resolved against it. *Chicago Union Traction Co.* v. *Chicago,* 199 Ill. 484; *Meday* v. *Borough of Rutherford,* 65 N. J. L. 645; *Minturn* v. *Larue,* 23 How. 435. The ambulance in the principal case was purchased for general use; the general tone of the court's opinion indicates that had it been purchased to be used by paupers and contagious cases, its purchase might have been within the implied powers of the city. If the dominating motive of the purchase had been to care for the paupers, the incidental use of it for other purposes would not have made the purchase invalid. In *Wheelock* v. *City of Lowell,* 196 Mass. 220, it was held that the fact that a public building was occasionally used for other than a public purpose, did not make the building any the less public. After deciding that the purchase of the ambulance was *ultra vires,* the court adopted the rule that a city is not liable for its *ultra vires* acts. This rule is undoubtedly supported by the weight of authority but has been greatly criticized; JONES, NEGLIGENCE OF MUNICIPAL CORPORATIONS, 173, says that it, in effect, punishes a third person, who is in no way responsible for the unauthorized act; this phase of the problem is discussed in *Salt Lake City* v. *Hollister,* 118 U. S. 256.

NEGLIGENCE—RES IPSA LOQUITUR.—Plaintiff, upon defendant's invitation and under guidance of one of defendant's employees, was making a tour of defendant's plant. While plaintiff was watching another employee label bottles of "Bevo," one of the bottles exploded, a piece of the glass striking and cutting the end of plaintiff's nose. The wound healed quickly, but the shape and appearance of plaintiff's nose was permanently ruined. She was a nineteen-year-old girl. Plaintiff's case was based entirely upon the presumption

of negligence. *Held,* the doctrine of *res ipsa loquitur* applies. *Riecke* v. *Anheuser-Busch Brewing Ass'n,* (Mo., 1921), 227 S. W. 631.

While the cases to which this doctrine is now applied are so numerous and diverse and the authorities so conflicting that to attempt a statement of definite limits is dangerous, yet certain essentials seem to be quite generally recognized. The thing causing the injury must be under the exclusive control of the defendant, the accident must be such as does not ordinarily happen if proper care is exercised, the plaintiff must have been rightfully in the place where the injury was received, and specific proof of the cause of the injury must be wanting. When applicable, the effect is that plaintiff may submit the issue of negligence to the jury upon proof of the injury only. SALMOND ON TORTS, [5th Ed.], 34. Plaintiff still has the burden of proof. *Sweeney* v. *Erving,* 228 U. S. 233. The doctrine was formerly applied only in cases where defendant was practically an insurer under a contractual relation with plaintiff, *Cosulich et al* v. *S. O. Co.,* 122 N. Y. 118, and it is still so limited in some courts, *Duerber M'f'g. Co.* v. *Dullnig,* (Tex., 1904), 83 S. W. 889, which case further restricts it to cases of falling objects. Of the cases wherein plaintiff's injury was caused by the explosion of a soft drink bottle, the best authority for the instant case is *Payne* v. *Rome Coca-Cola Bottling Co.,* 10 Ga. App. 762, which, indeed, goes much farther than the principal case, for there the offending bottle had passed through several hands and was in possession of a retailer. The court held that there being no evidence of negligence on the part of any of the intermediaries, the inference of negligence arose against the bottler. On similar facts, *Dail* v. *Taylor,* 151 N. C. 284, is exactly *contra* on the ground that the bottle was out of the control of the defendant. Also on similar facts *Glaser* v. *Seitz,* 35 Misc. 341, is *contra* on the ground that the bottle of seltzer water was sold for just what it was. Plaintiff failed to recover for the loss of his eye in *Stone* v. *Van Noy R. News Co.,* 153 Ky. 240, because the court considered the injury equally consistent with the theory of negligence or of no negligence, and that, therefore, it should not go to the jury. On similar facts the plaintiff also failed to recover in *Wheeler* v. *Laurel Bottling Works,* 111 Miss. 442. On principle, the strongest argument for the instant case would seem to rest on the fact that the bottler is in a position to know whether the product is dangerous, and that no one else who will handle it is in such position. For application of the doctrine of *res ipsa loquitur* to passenger-carrier cases, see 11 MICH. L. REV. 531. See also 16 MICH. L. REV. 205.

PHYSICIANS—DUTY TOWARD THOSE LIABLE TO EXPOSURE TO AN INFECTIOUS DISEASE.—Appellants sued the two physicians in attendance on their married son for not telling them that typhoid fever was an infectious disease and for advising them to take him home and put him among the younger children. As a result, both of the appellants and three of their minor children contracted typhoid fever, of which one of the children died. *Held,* although the complaint was insufficient here because of failure to allege facts showing the negligence to be the proximate cause of the injury, a duty rests on